

April 18, 2024

VIA-E-MAIL & U.S. MAIL

Members of the City Council for the City of Salinas, California
See Attached Service List

**Re: Request for Recusal of Councilman Steve McShane
Re Appeal of Conditional Use Permit CUP2022-048¹**

To the Honorable Members of the City Council of Salinas, California,

Please allow this letter to serve as a formal request that Councilman Steve McShane recuse himself from voting on or otherwise participating in any deliberations or other proceedings related to the appeal by CannaCruz Inc. (“**Cannacruz**”) of the denial of the application for CUP2022-048 (the “**Appeal**”).²

As many of you are aware, the application for CUP2022-48 (the “**CUP**”) has been pending for nearly two years. Obtaining the CUP is part of the formal process for approving a new location for Cannacruz, which has operated at its present Abbott Street location in the City of Salinas (the “**City**”) for close to six years. Since its opening Cannacruz has operated without incident, presently employs fifty-six (56) City residents, and has contributed over \$1.9 million in local tax revenue and fees. Despite these beneficial contributions to the City, Cannacruz has inexplicably drawn the ire of Councilman Steve McShane, who has worked both openly and behind closed doors against the CUP and the project overall.

Councilman McShane’s first overt involvement with the project occurred in late February of 2022, just as Cannacruz was preparing to fully apply for the necessary entitlements and was seeking input from public officials on the project.³ As the project was located in Councilman McShane’s district, Grant Palmer (one of the owners of Cannacruz) set up an initial meeting, which was held on February 22nd. During that meeting, Councilman McShane immediately expressed skepticism about the project, stated (without further explanation) that the proposed site

¹ Cannacruz is additionally seeking a major amendment to Commercial Cannabis Permit (CCP) CCP2023-007 as part of the entitlements for the project.

² This correspondence does not cover the numerous issues with the Planning Commission’s decision and is intended solely to address and request Councilman McShane’s recusal from participating in or deciding the Appeal.

³ Cannacruz had already by this date received the necessary zoning information letter from the Community Development Department for the project.

was “inappropriate”, and (apparently searching for a reason to oppose it) claimed that the shopping center, which had previously sustained a 20,000 sq ft. furniture store, lacked “adequate” parking. Councilman McShane then stated that he would contact the Planning Division the very next morning to discuss the matter. The day after this discussion, the Division informed Cannacruz that more than double the current forty (40) dedicated parking spaces would be needed to sufficiently support the project.

Cannacruz was, to say the least, shocked by these out-of-the-blue issues and unexpected hurdles placed by the Planning Division. Concerned about the viability of his business in the City, Grant Palmer met with Councilman McShane at McShane’s office in the Chamber of Commerce. At the meeting, Councilman McShane mentioned that, in addition to his seat on the City Council, he was also the CEO of the Chamber of Commerce and owned the building where the meeting was being held. Councilman McShane then delved into the significant problems that Cannacruz was facing and stated that it would be “helpful” if Cannacruz joined the Chamber of Commerce. Councilman McShane then presented a membership document and drew brackets around the \$2,500 per year level of membership. Though Cannacruz had no plans to join the Chamber, Mr. Palmer felt pressured to do so and paid the McShane-suggested membership fee. Apparently displeased with Cannacruz’s reluctant acquiescence, or perhaps motivated by other interests, or simply unable to put the genie back in the bottle, the overzealous scrutiny started within the Planning Division continued after this meeting, with Cannacruz being forced to submit costly parking studies, face significant delays, and incur substantial other expenses while it waited for a needlessly dysfunctional process to be resolved.⁴

Even beyond these initial difficulties, Councilman McShane’s baseless hostility continued and has led him to attempt to influence public opinion against the project utilizing what can best be characterized as “dog whistle” tactics. As part of this, Councilman McShane has made public comments and social media posts which, while seemingly innocuous on their face, often omit key information in order to elicit a visceral and negative gut reaction against the project.

Such tactics were on full display in the days leading up to the Planning Commission hearing on the CUP when Councilman McShane posted on several Facebook groups to allegedly “invite” public comment. In his original Facebook post, Councilman McShane never mentioned that the project involved an existing City business that was simply seeking to relocate, but did go out of his way to: (i) identify the project as “high profile,” (ii) label the lot as a “good size property,” and (iii) mischaracterize the project as a proposal “to convert” the Legacy Furniture

⁴ As a clear example of the dysfunction related to this project, the City’s engineer’s report initially wanted to charge a development impact fee of \$2,366,371.68 in connection with the project. For context, such amount would have amounted to roughly 2% of the approx. \$133 million general funds available to the City as part of the 2023 fiscal year budget. After Cannacruz commissioned their own study, and after going back and forth several times, the current (though not final) development fee request is closer to \$250k.

store into a cannabis dispensary.⁵ Tellingly, Councilman McShane edited this original post three separate times, but only did so upon being admonished by comments that such posts clearly omitted crucial information and context. For example, after the original post, Catherine Kobrinsky Evans replied and commented:

“Steve McShane is this post your idea of thoughtful leadership? This use is legal in this location, by law. If you actually believe that ailing furniture stores are the best use for South Main, then that explains the current blight. The applicant began their process with the City in mid 2022! It’s been almost 2 years of continual obstacles by our City while the applicant operates in steadfast good faith, how is that fair to anyone? I haven’t seen or heard of negative issues with any dispensaries in Salinas, in fact they provide a safe, clean space to purchase products legally.”

After this response, other comments, including one from Aaron Johnson (an attorney with JRG who represents Cannacruz in the Appeal and the application process) and from Grant Palmer pointed out that this was *not a new* dispensary, as implied by Councilman McShane, but a proposal to relocate an *already existing one*. Councilman McShane altered his post after being confronted with these facts, but did so without acknowledging that his original post had excluded key information.⁶ Most importantly, several commenters noted that once they had been provided with the fuller picture of and context for the project, their opinions in fact *changed*. As one comment rather telling put it:

“My initial reaction from reading Steve’s post was NO, but after reading your comment that this would be the back half of the building and not visible from S Main St I really don’t see the issue – most dispensaries have great security and are pretty discrete...”

In addition to the misleading lack of information, such posts also included several photos of the site that Councilman McShane apparently highlighted in bold red lines and circles. The pictures and the highlighting seem deliberately designed to give the misleading impression that the project would take over the *entire* Liberty Furniture store and would be visible from the street. Both of these implications are simply incorrect and, based on the public comments to Councilman McShane’s posts, several members of the public were unfortunately misled.

Councilman McShane’s posts are also notable and highly unusual not only for their lack of vital information, but for their context as well. It in fact does not appear that Councilman McShane has made similar posts for other projects in the recent past, nor have we found instances of any other City councilperson, City employee, or member of a City commission who conducted similar “outreach” for this project. Councilman McShane’s initiative in making such

⁵ Copies of such posts are attached to this correspondence. In addition, we have attached an example of public support the project has received from City residents.

⁶ A copy of each of the versions of the post is included with these attachments.

posts is even more unusual given that the Planning Commission has its own means and procedures for seeking out public comment that logically and for good reason do NOT require an individual City councilperson to use their personal social media accounts to solicit such public feedback.

Unfortunately, his posts appear to have had their intended effect. The timing of many letters received about the project coincided with the afternoon of March 26th when Councilman McShane made his first post. Other comments clearly realized the impact that Councilman McShane's misleading approach would cause with one noting that "this story needs to get out to the community. This story is missing and minds are being made up out of fear!" While Cannacruz does not oppose public comment nor a meaningful discussion and scrutiny, Councilman McShane has crossed the line into public advocacy while simultaneously serving as a decision maker on the Appeal, the CUP, and the project.

In addition to his social media posts, it appears that Councilman McShane has been privately reaching out to individuals throughout the City to build direct opposition to the project. While Councilman McShane's public approach has been subtle, his non-public conversations and efforts have been far more overt. In one call to a prominent local planning consultant, Councilman McShane explicitly stated that the proposed dispensary would bring increased crime to the area and that it therefore needed to be stopped.

We have also been informed of Councilman McShane contacting other long-time City and County residents, including the owners and managers of several large local agricultural interests, requesting they come forward and publicly oppose the project. We presently have a pending Public Records Act request, in addition to other investigations, that will likely reveal further backroom pressure and will bring such information to light once it is uncovered. It is also important to recognize that none of these communications by Councilman McShane were included as part of the record presented at the Planning Commission hearing.

These actions by Councilman McShane show an unfortunate and undeserved bias and, given that the City Council will act in a quasi-judicial capacity in the Appeal, he must recuse himself. When functioning in an adjudicatory capacity, *e.g.* an appeal of a decision from a city commission, a city council must be "neutral and unbiased." *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1021. Being neutral and unbiased requires that a decisionmaker has: (i) no conflict of interest, (ii) not prejudged the specific facts of the case, and (iii) is free of prejudice in favor of any party. *Petrovich Development Co. LLC v. City of Sacramento* (2020) 48 Cal.App.5th 963, 973. A decision rendered by a biased decision maker is invalid. *Woody's supra* at 1022. In assessing potential bias "[t]he law does not require the disappointed applicant to prove actual bias. Rather, there must not be 'an unacceptable probability of actual bias.'" *Petrovich supra* at 73.

In addition, it is well known in the City and the wider Monterey County community that Councilman McShane has had familial and political connections to competitors of Cannacruz. This interest apparently began when a proposal was made to convert the site of McShane's Nursery into a retail cannabis dispensary just outside City limits in the County of Monterey.

That proposed project was pursued by the Councilman's then father-in-law, Don Chapin, as well as the founders of Grupo Flor, one of the current dispensaries in the City. The CEO of Gupo Flor, along with several of its executives, were in fact some of the earliest donors to Councilman McShane's unsuccessful bid for the Monterey County Board of Supervisors in 2020.⁷ The proposed dispensary would have been a direct competitor of the current Cannacruz project. It is also public information that other dispensary owners in the area, who have economic interests opposed to Cannacruz, contributed to his campaign for County Supervisor. In light of this, and given the clear bias already shown by Councilman McShane, he should err on the side of caution and take no further part in the decision-making process.

Cannacruz has enjoyed a strong relationship with the City and the citizens of Salinas since its opening. While it is unfortunate that Councilman McShane has seemingly taken the actions he has, the process can be spared further potential taint by his recusal. Wearing the hat of both advocate and judge, as Councilman McShane apparently wishes to do, is an irreconcilable conflict, and one role must out of necessity give way to the other. Given that Councilman McShane has already chosen the role of advocate against the project, he cannot also serve as its judge. We therefore believe that it is entirely appropriate and necessary that Councilman McShane recuse himself from voting on the Appeal, or otherwise participating in any deliberations or other discussions related to this Appeal. Thank you for your attention to these matters.

Respectfully Submitted,



Christopher J. Wood, Esq.

CJW: mc
Attachments

service list: Councilwoman Carla Viviana González
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⁷ See https://www.montereycountyweekly.com/blogs/news_blog/salinas-city-councilman-steve-mcshane-launches-campaign-for-county-supervisor-seat/article_3afddc7c-4d90-11e9-b6c7-c70c41484e2f.html

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ATTACHMENTS

THE ORIGINAL FACEBOOK POST:

March 26 at 1:35 PM

👍 10 reactions on this version



Steve McShane

Opinions Please: There is a proposal to convert the Legacy Furniture building on South Main Street to a cannabis dispensary. What do you think? Neighbors and businesses within 300 feet will be notified. There will be a public hearing before the Salinas Planning Commission Wednesday, April 3rd at 4PM where plans will be presented. Public comment is welcome. You can show up in person or email the City Clerk at publiccomment@ci.salinas.ca.us. It is good size property that is high profile. Looking for as much public input as possible. Thanks.



REVISED POSTS:

March 26 at 2:45 PM

👍 1 reaction on this version

 Steve McShane

Opinions Please: There is a proposal to convert the Legacy Furniture building on South Main Street to a cannabis dispensary by Cannacruz looking to move from Abbott Street. What do you think? Neighbors and businesses within 300 feet will be notified. There will be a public hearing before the Salinas Planning Commission Wednesday, April 3rd at 4PM where plans will be presented. Public comment is welcome. You can show up in person or email the City Clerk at publiccomment@ci.salinas.ca.us. It is good size property that is high profile. Looking for as much public input as possible. Thanks.



March 26 at 2:52 PM

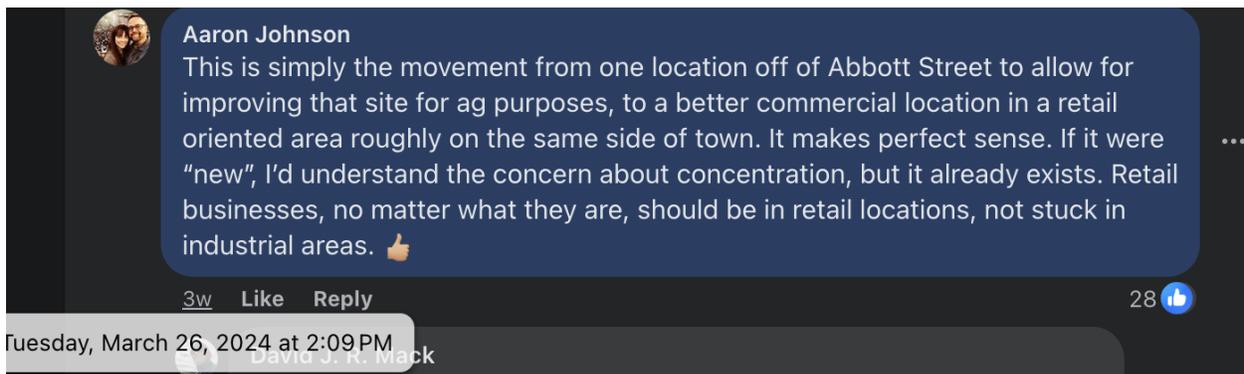
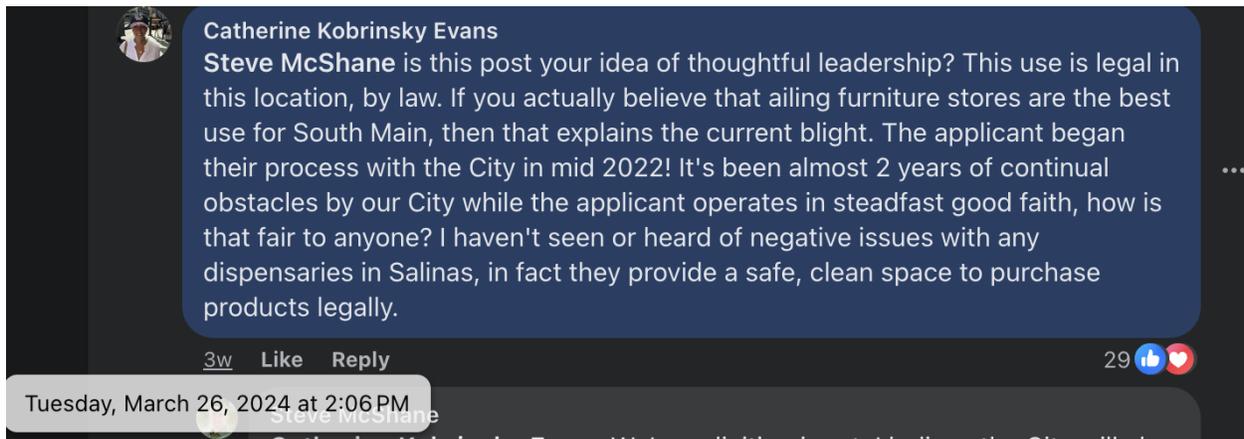
 Steve McShane

Opinions Please: There is a proposal to convert the Legacy Furniture building on South Main Street to a cannabis dispensary operated by Cannacruz looking to move from Abbott Street. What do you think? Neighbors and businesses within 300 feet will be notified. There will be a public hearing before the Salinas Planning Commission Wednesday, April 3rd at 4PM where plans will be presented. Public comment is welcome. You can show up in person or email the City Clerk at publiccomment@ci.salinas.ca.us. It is good size property that is high profile. Looking for as much public input as possible. Thanks.





COMMENTS:



Grant Palmer
Hello,
My name is Grant Palmer. I'm the co-owner of this project.

Our company is CannaCruz. This is NOT a new dispensary. We are simply asking to move into a new building in order to better accommodate the community.

We would be only moving into the back half of this building. The dispensary will not be visible from Main St.

We are a 100% family owned and operated business and I am a local resident.

We have been struggling to get this project through the city for two years now. The result of denying this project will mean that we will go out of business and 120 people will lose their jobs with most of them being Salinas residents, many with families.

We have a good reputation at our current location and have not caused any problems for the city in 6 years of operations. Last year our Salinas store paid over \$1.7 million in tax revenues. We are doing everything we can to be supportive to the community.

Please support this project.

Thank you

3w Like Reply 55

Tuesday, March 26, 2024 at 2:25 PM

Brandy Overstreet Brazil
Steve McShane hey Steve I think would be good to include the information that **Grant Palmer** added. Which is stating it is not a New dispensary, but a successful one trying to relocate to continue and save jobs. Not being visible from the street is a factor as well. As I see it that building has been vacant for years and has had numerous homeless break in and reside inside. I think thriving businesses are better than vacant businesses.

3w Like Reply 21

Tuesday, March 26, 2024 at 3:47 PM

 **Jamie Courrejou-Sgheiza**
Grant Palmer if you currently have a location off Abbott St and are looking to relocate in order to expand...how you would go out of business, with 120 employees losing their jobs if this doesn't pass? Did I miss something?
My initial reaction from reading Steve's post was NO, but after reading your comment that this would be the back half of the building and not visible from S Main St I really don't see the issue - most dispensaries have great security and are pretty discrete, but I just don't understand how not moving will put you out of business?
3w Like Reply 2  

 **Grant Palmer**
Jamie Courrejou-Sgheiza our current building has been purchased by another company who will be repurposing it. We have to move.
3w Like Reply 5  

 **Debbie Quesada-Bielsker**
Jamie Courrejou-Sgheiza Thank you for your question
3w Like Reply 

 **Susan Hanks Marscellas**
Grant Palmer this story needs to get out to the community. This story is missing and minds are being made up out of fear!
3w Like Reply 7  

Tuesday, March 26, 2024 at 4:30 PM

 **Jamie Courrejou-Sgheiza**
Grant Palmer thanks for clarifying - that's a crucial part of your story that should also be taken into consideration.
3w Like Reply 4 

OTHER POSTS BY COUNCILMAN MCSHANE:



Neighborhood Watch Help In Salinas ... X
Steve McShane · Mar 26 · 🌐

Looking for feedback on the proposed cannabis dispensary on South Main across from the Star Market shopping center. You can email comments to publiccomment@ci.salinas.ca.us.

Show attachment

👍👎👏 32 55 comments

👍 Like 💬 Comment 📧 Send



South Salinas Neighborhood Gardening ... X
Steve McShane · Mar 26 · 🌐

Looking for feedback on the proposed cannabis dispensary on South Main across from the Star Market shopping center. You can email comments to publiccomment@ci.salinas.ca.us.

Show attachment

👍👎👏 6 38 comments 3 shares

👍 Like 💬 Comment ➦ Share



Clifford No

Like Reply



Write a public comment... 📷 😊

11:52 5G

< **People Who Shared This**

 **South West -Salinas Central Park Neighborhood Group** ... X
Steve McShane · Mar 26 · 🌐

Looking for feedback on the proposed cannabis dispensary on South Main across from the Star Market shopping center. You can email comments to publiccomment@ci.salinas.ca.us.

Show attachment

👍 Like 💬 Comment ➦ Share

 **NEW Salinas Neighborhood Watch** ... X
Steve McShane · Mar 26 · 🌐

Looking for feedback on the proposed cannabis dispensary on South Main across from the Star Market shopping center. You can email comments to publiccomment@ci.salinas.ca.us.

Show attachment

👍❤️😬 10 17 comments 1 share

👍 Like 💬 Comment ➦ Share

 **Robert Backus**
Let them build it. Some revenue for the city with all the tax... See more

Love Reply 3 👍❤️

 Write a public comment... 📷 😊

Home Marketplace Profile Notifications Menu

PUBLIC COMMENT EMAILS:

Thomas Wiles

From: Merijewel Burr
Sent: Sunday, March 31, 2024 12:07 PM
To: publiccomment@ci.salinas.ca.us
Subject: CannaCruz Dispensary

CAUTION: This message originated outside of the City of Salinas email system. Do not click on links or open attachments unless you are sure the content is safe.

To Whom it May Concern:

My name is Merijewel Goss. I'm a lifelong resident of Salinas. I have been employed at Natividad Medical Center for 13 years as a Software Analyst, and before that I was employed at SVMH for 10 years. My mother retired from SVMH after 46 years, and worked as Charge Nurse in the ER. My father retired from Soledad State Prison. I come from a hardworking family and support CannaCruz Dispensary.

I am writing in support of the relocation of CannaCruz from Abbott Street to South Main in the back half of the old Legacy Furniture building. Their current building was sold, and they need to relocate. It is my understanding that they have been attempting to get this move approved for the past two years. This business has been running in our city for the past 6 years, successfully, without incident. This store paid 1.7 million in tax revenues last year, and this locally owned company employs around 120 people. I would hate to see the city lose this revenue from a legal business, and see local residents lose their jobs.

A Salinas council member made a post on social media and shared it into many groups, which made it sound like it was a new business and that it would be visible from the main street. People started commenting with their own prejudices and misguided information and listing reasons why they don't want the business to relocate to S. Main. They are concerned that it will be visible from the main street, which it won't be. They don't want a new dispensary, which it's not. They think it won't be safe, even though this business has security in the parking lot making sure no one loiters, they are going to put up a fence around the parking lot, and you have to show ID to get into the building. Also, the Salinas PD has access to their video camera surveillance. There is also the inaccurate belief that only undesirable shop at these types of businesses which is not true.

In today's day and age, you would think people would be educated about the benefits of cannabis, and that people of all types use it. Yes, even successful people go to the dispensaries. They use tinctures, creams, flower, and gummies for medicinal purposes to help with conditions that their prescriptions either don't work well for, or cause too many side effects. These items help with severe pain, nausea, cancer, and wasting syndrome. People use it for migraines, fibromyalgia, chronic pain, glaucoma, arthritis, and even severe symptoms related to Crohn's disease. They are local hard-working people that you might never guess shop in these stores. I know many customers that have high earning jobs, and are respectable upstanding citizens. I know someone that use to have others go shop for her because she didn't want to be seen in the stores when they first opened, due of the stigma that is sadly still here. There are even pet supplies to help with your dog's conditions available. Why are people so quick to judge? Why are people treating this like lepers shop here? It's absurd that it's still looked upon like this. The fact that it's been

1

made this big of a deal is silly. I'm surprised at how much attention has purposely been brought to this in order to get people pitted against it.

My questions:

Do all business re-locations in Salinas take 2 years for approval? (Genuinely curious on this one)

Do they all get posted in several community Facebook groups for people to debate and spread misinformation and personal biases?

Thank you for your time,
Merijewel Goss